

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

PUBLIC SERVICES – Commercial Taxes Department – Allegation of embezzlement of Govt. money & temporary misappropriation of tax Collection – Initiation of disciplinary Action against Sri S. Santhosham, ACTO (Retd) along with others – Article of Charges Issued – Enquiry Officer appointed – Enquiry Report submitted – Accused Officer found guilty – Major Penalty of withholding of pension and gratuity in full permanently imposed against the A.O. – A.O. filed O.A. No.4226/2008 – A.P.A.T. Orders – Issued – Implementation of the orders of the Hon'ble APAT – Orders – Issued.

REVENUE (VIG.I) DEPARTMENT

G.O. (Rt.) No. . 224

Dt.18.02.2011.

Read the following:-

- 1) DC (CT), Kakinada Ref.No.P1/2435/02, dt.25.09.2003.
- 2) Sri S. Santosham, ACTO, WSD, dt.08.10.2003.
- 3) DC (CT), Kakinada Ref.No.E1/2435/02, dt.17.01.2004.
- 4) AC (CT) (Int.), Eluru Ref.CT.I.1.12/2003, dt.19.05.2004.
- 5) Sri S. Santosham, ACTO (Retd.) explanation, dt.01.03.2006.
- 6) DC (CT), Kakinada Ref.No.P1/2435/2002, dt.19.10.2006.
- 7) Representation filed by Sri S. Santhosam, ACTO (Retd.), dt.15.11.2006.
- 8) CCT's Ref.No.V3/2314/2004, dt.14.07.2008.
- 9) Hon'ble APAT Orders, dt.19.10.2010 in O.A. No.4226/2010.
- 10) Memo No.24662/Vig.I(2)/2005, dt.10.02.2011.
- 11) G.O. (Rt.) No.1097, Fin. & Plg.(FW-Pen.I) Deptt., dt.22.06.2000.

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ORDER:

In the reference first read above, Article of Charges were framed against Sri S. Santosham, formerly Assistant Commercial Tax Officer (Int.), Office of the Commercial Tax Officer-II, Tanuku by the Deputy Commissioner (CT), Kakinada along with two others on the allegation of embezzlement of Government money and temporary misappropriation of tax collection.

2) In the reference second read above, Sri S. Santosham, Assistant Commercial Tax Officer has submitted his Written Statement of Defence to the charges framed against him.

3) After examination of the Written Statement of Defence submitted by the Charged Officer, the Deputy Commissioner (CT), Kakinada vide reference third read above has appointed Enquiry Officer to conduct detailed enquiry into the Charges framed against Sri S. Santosham, Assistant Commercial Tax Officer.

4) In the reference fourth read above, the Enquiry Officer has submitted his report and the same was furnished to Sri S. Santosham, Assistant Commercial Tax Officer (Retd.) with a direction to submit his explanation.

5) In the reference fifth read above, Sri S. Santosham, Assistant Commercial Tax Officer (Retd.) has submitted his explanation.

6) After consideration of the explanation submitted by Sri S. Santosham, Assistant Commercial Tax Officer (Retd.), the Deputy Commissioner (CT), Kakinada vide reference sixth read above has imposed a punishment of withholding of pension in full permanently against Sri S. Santosham, Assistant Commercial Tax Officer (Retd.), as the individual, during the course of disciplinary proceedings, retired from Government service on 30.09.2003 on attaining the age of superannuation.

7) In the reference seventh read above, Sri S. Santosham, Assistant Commercial Tax Officer (Retd.) has filed a representation before the Commissioner of Commercial Taxes, A.P., Hyderabad and the same was rejected by the Commissioner of Commercial Taxes, A.P., Hyderabad in the reference eighth read above.

8) Aggrieved by the above, Sri S. Santosham, Assistant Commercial Tax Officer (Retd.) has filed O.A. No.4226/2008 before the Hon'ble A.P. Administrative Tribunal and the Hon'ble A.P. Administrative Tribunal in its orders, dt.19.10.2010 has directed as follows:-

"8. As the impugned orders of stoppage of pension in full is liable to be set aside, the applicant is entitled to full pension and retirement benefits. But, only final order is set aside on the ground of want of jurisdiction. The applicant is not exonerated. The competent authority can still pass final orders. But the Departmental proceedings are deemed to be pending. So, he is also entitled for provisional pension from the date of retirement, if not paid. In fact, the Hon'ble Supreme Court in the case of **S.K. Dua Vs.**

P.T.O.

State of Haryana & Others reported in ***(2008) 3 SCC 44*** has held that it is the fundamental right of a retired Government servant to claim interest on the delayed payment of pensionary benefits. Therefore, the applicant is entitled at 8% interest on the provisional pension. But, if final orders are not passed within three months from the date of receipt of this order, he is entitled for full pension and other retirement benefits at 8% per annum. On gratuity he is entitled to interest as per rules.

9. Therefore, the O.A. is allowed. The impugned order Ref.No.OPI/2435/2002, dated 19.10.2002 imposing the penalty of stoppage of full pension permanently and the dismissal of the appeal dated 14.7.2008 are set aside. The respondents are directed to pay provisional pension to the applicant with interest at 8% from the date of retirement to date of payment of final order. If final orders are not passed within three months from the date of receipt of this order, he is entitled for full pension with interest at 8% per annum on retirement benefits. On gratuity he is entitled for interest as per rules."

9) On examination of the records and keeping in view of the orders of Hon'ble A.P. Administrative Tribunal, Government have decided to continue departmental proceedings against Sri S. Santosham, Assistant Commercial Tax Officer (Retired). Accordingly, in the reference eleventh read above, a Show-Cause Notice was issued to Sri S. Santosham, Assistant Commercial Tax Officer (Retd.) provisionally proposing to impose 50% cut in pension for a period of five years. After receipt of the explanation from the individual, further action will be taken in the matter.

10) Pending finalization of the disciplinary proceedings, Government, after careful consideration of the matter in detail and keeping in view the orders, dt.19.10.2010 of the Hon'ble A.P. Administrative Tribunal in O.A. No.4226/2008, decide to implement the orders of the Hon'ble Tribunal to sanction provisional pension to the applicant, viz., Sri S. Santosham, Assistant Commercial Tax Officer (Retd.) to an extent of 75% of the normal pension to which he is entitled as per the instructions issued in G.O. Ms. No.1097, Finance & Planning (FW.Pen.I) Department, dt.22.06.2000 with effect from the next day of the date of his retirement i.e, from 01.10.2003 together with 8% interest upto the date of payment of arrears. He is also eligible for gratuity along with interest i.e., 4.5% for the period beyond three months and upto 1 year and 5% per annum beyond one year after the gratuity because due and payable as per the instructions issued in Circular Memo No.16077/135/A2/Pen.I/2004, Finance (Pen.I) Deptt., dt.20.02.2006.

11) The Commissioner of Commercial Taxes shall take necessary action accordingly.

12) This order issues with the concurrence of Finance (FW.Pen.I) Department vide their U.O. No.04696/39/A1/Pen.II/10, dt.15.02.2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri S. Santosham, Assistant Commercial Tax Officer (Retd.)
through the Commissioner of Commercial Taxes, A.P., Hyderabad.
The Commissioner of Commercial Taxes, A.P., Hyderabad.

Copy to:-

The Government Pleader for Revenue (Ser.), A.P. Administrative Tribunal, Hyderabad.
The District Treasury Officer, Eluru, West Godavari District.
The Director of Treasuries & Accounts, A.P., Hyderabad.
The Accountant General, A.P., Hyderabad.
The Deputy Commissioner (CT), Kakinada.
The Revenue (CT.I) Department.
File.

// FORWARDED :: BY ORDER //

SECTION OFFICER